

EXHIBIT

5

U.S. DEPARTMENT OF JUSTICE

REQUEST FOR ADMINISTRATIVE REMEDY

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From:	DAVILA-BAJANA JUAN	47580-053	BA	MCKEAN
	LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

Part A- INMATE REQUEST

On 4/8/03, I filed Administrative Remedy complaining about my ailments due to UNICOR excessive secondhand smoke. In retaliation for complaining about UNICOR complaining about UNICOR secondhand smoke, and about the health problems caused by UNICOR ETS, I was fired from UNICOR.

On 4/29/03, I had a meeting with Safety Manager, Mr. Sapko, Mr. Holohan and Mr. Clark. They coerced me to withdraw my administrative remedy against UNICOR for the secondhand smoke and in return I was promised to be reinstate to my UNICOR job in the Daysift instead of Nightshift. They claimed smoking is better managed in the DayShift. The aforementioned individuals told me that they have talked to Ms. Forsyth, and she will reinstate me to my UNICOR job. Between May 1-27, 2003, I repeatedly talked to Ms. Forsyth in the Mainline, in UNICOR, and she repeatedly told me that she will reinstate me before she depart to her new job. She deliberately left without keeping to her promise.

RELIEF:

Because the above individuals coerced me to withdraw my administrative remedy for secondhand smoke and lied to me that they will reinstate me to my UNICOR job, I am reinstating my claim of the injury I suffered from UNICOR secondhand smoke.

DATE

SIGNATURE OF REQUESTER

Part B- RESPONSE

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

CASE NUMBER: 304911

CASE NUMBER:

Part C- RECEIPT

Return to:

LAST NAME, FIRST, MIDDLE INITIAL

REG. NO.

UNIT

INSTITUTION

SUBJECT:

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)

BP-229(13)

April 2003

DAVILA-BAJANA, JUAN
Reg. No. 47580-053
MCK 304411 - F1

PART B - RESPONSE

This is in response to your Request for Administrative Remedy, receipted in my office on July 8, 2003, in which you allege that you were coerced to withdraw an existing administrative remedy regarding secondhand smoke in the UNICOR Factory. You further allege that in recognition of withdrawing your original administrative remedy, you were to be rehired in UNICOR.

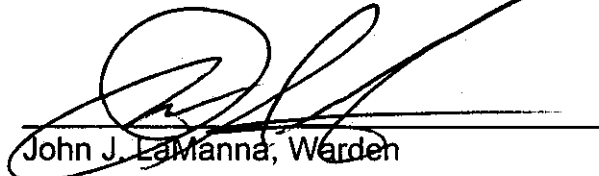
An investigation into your allegations reveals the following: You withdrew your administrative remedy without any conditions. You were told that any attempt to regain your job would be in response to discussions with the Superintendent of Industries. The Superintendent indicated that you were removed because of activities deemed to interfere with the safe and orderly running of the factory; and, at a minimum, your status would be reevaluated in the future for possible rehiring. At no time were you told that you would be rehired.

With respect to your claim of adverse health related to secondhand smoke in the factory, there have been three separate visits by a compliance officer from the Occupational Safety and Health Administration (OSHA). The dates of the visits were Wednesday April 16, 2003, Wednesday May 14, 2003, and from Tuesday June 17, 2003 through Wednesday June 18, 2003. The preliminary findings indicate no evidence of any concerns related to the air quality within the factory. This includes the air quality as it relates to the smoking area within the factory. All appropriate and necessary practices are being followed in accordance with OSHA regulations. A final report will be provided by OSHA detailing the visit and will list any possible recommendations. Upon receipt of a final report, the information will be disseminated in accordance with OSHA guidelines.

Based on these findings your Request for Administrative Remedy is denied.

In the event that you are not satisfied with this response, you may appeal within twenty (20) calendar days from the date of this response by submitting a BP-DIR-230 to the regional director.

7-21-03
Date


John J. LaManna, Warden

ADMINISTRATIVE REMEDY INFORMAL RESOLUTION WORKSHEET

PART 1: NOTICE TO INMATE: Be advised that before filing a Request for Administrative Remedy Form BP-9, you **MUST** attempt to informally resolve your complaint through your Correctional Counselor. Briefly state complaint below, and list what efforts you have made to resolve your complaint informally, stating names of staff contacted.

This Informal Resolution was issued by the Correctional Counselor on _____ and returned to the Counselor on _____ (date). (date)

Inmate's Name JOAN DAVIDA BAVANA Number 47580-053 Unit B-A

1. Complaint: _____

PLEASE SEE ATTACHED.

2. Specific relief desired: _____

SEE ATTACHED.

3. Efforts made to informally resolve and staff contacted: _____

SOI UNICOR.

[Signature]
Inmate's Signature

dated 6/12/03

47580-053
Inmate's Register Number

PART 2: CORRECTIONAL COUNSELOR'S COMMENTS:

1. Efforts made to informally resolve and names of staff contacted: _____

ACCORDING TO UNICOR STAFF YOU WILL HAVE TO BE OUT OF UNICOR FOR NINETY DAYS BEFORE YOU WILL BE PLACED BACK IN UNICOR. YOU WILL ALSO LOSE YOUR LONGEVITY. IF YOU HAVE ANY QUESTIONS REGARDING THIS ISSUE, I SUGGEST THAT YOU SPEAK WITH MR. HOLOHAN, UNICOR AT MAIN LINE.

Date informally resolved 6/12/03 BP-9 issued (circle one): _____

Counselor's Signature: T. HOLT, COUNSELOR UNIT BA 6-27-2003

If complaint is NOT informally resolved, forward original attached to BP-229 form to Warden (Attn: Warden's Secretary).